Madeleine C. Ball 25-61 34th St., Apt 1 1 Astoria, NY, 11103 2 203) 858-9978 Plaintiff in Pro Se 3 UNITED STATES DISTRICT COURT 4 17CV 4828 **FOR** 5 THE SOUTHERN DISTRICT OF 6 Case No.: **NEW YORK** 7 **COMPLAINT** Madeleine C. Ball 8 REQUEST FOR SUMMARY JUDGEMENT Plaintiff, 9 VS. 10 Melissa Mark-Viverito, in her capacity 11 as Speaker of the New York City 12 Council; 13 Ramon Martinez, in his capacity as 14 Chief of Staff for Council Speaker 15 Melissa Mark-Viverito; 16 and William Alatriste, in his capacity as 17 Staff Photographer for the New York 18 City Council Press Office, 19 Defendants. 20 21 22 23

JURISDICTION

1. This court has jurisdiction under 28 U.S.C. § 1331. Federal question jurisdiction arises pursuant to 29 U.S.C. Chapter 8, in particular §§203(e), 206(a), 215(a)(2), and 216.

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VENUE

1. Venue is proper pursuant to 28 U.S.C §1391 because the events giving rise to this complaint happened in this district.

PARTIES

- 1. Plaintiff Madeleine C. Ball worked as a photojournalism intern at the New York City Council ("NYCC") Press Office from June 14, 2015 to August 29, 2015. She was never paid for her work, even though William Alatriste, staff photographer at the NYCC, promised her payment and the nature of her internship dictated that she was legally required to be compensated.
- 2. The New York City Council is New York City's legislative body.
- 3. Ramon Martinez is the Chief of Staff for Council Speaker Melissa Mark-Viverito and upon information and belief manages payroll for NYCC employees.
- 4. William Alatriste is the Staff Photographer at the New York City Council Press Office and was Ms. Ball's direct supervisor.

STATEMENT OF FACTS

- 5. Ms. Ball first learned of the opportunity to be a photojournalism intern for the NYCC in March 2015, when she was a junior at New York University. Mr. Alatriste was a guest speaker for her NYU photojournalism class and described this internship as paid and full-time.
- 6. At the time Ms. Ball had extremely limited financial resources.
- 7. Ms. Ball spoke with Mr. Alatriste and he offered her the position. Before beginning work, Mr. Alatriste personally assured Ms. Ball that her internship

would be a paid one. With this information, Ms. Ball accepted the internship.

- 8. Mr. Alatriste initially did not specify the amount that Ms. Ball would be paid. However, he eventually told Ms. Ball that she would be paid \$15.00 per hour.
- 9. Shortly after Ms. Ball began working for the NYCC, Mr. Alatriste told her that she had to sign a contract to continue working. The contract stipulated that the internship was educational and would be unpaid. Mr. Alatriste said signing the contract was just a formality to work there and that Ms. Ball would still be paid. Ms. Ball signed the contract under duress as it was already June and she did not have time to find another job. She was never given a copy of the contract although she continuously requested one throughout the time she worked at the NYCC. At no point did Mr. Alatriste provide her with any sort of wage notice or information detailing matters such as how much she would be paid, how often, or if she would receive overtime, even though she repeatedly asked for such information.
- 10. Throughout the time that she worked at the NYCC, Ms. Ball frequently asked Mr. Alatriste that she be paid. Ms. Ball never was paid, although Mr. Alatriste verbally and through text messages and email reassured her that she would be compensated. (Exhibits A1-A3).
- 11. During the time of her work at the NYCC, Ms. Ball covered press conferences, hearings, and events concerning council member activity throughout the city. She did the same work as her paid supervisor and took his place at times when he was unavailable. Ms. Ball's work was invaluable to the communications at the NYCC as her work appeared in newspapers and social media across the city. (Exhibits B1-B7; C1-C6). She was relied

upon by multiple council members, including Melissa Mark-Viverito and Jumaane Williams. The NYCC relied on her skill at photography, which was not learned at this job but was instead a reason why she was hired. Ms. Ball's work at the NYCC was significant enough that she had the credentials to obtain an NYPD Press Pass.

- 12. Ms. Ball was required to answer her phone at all times and at inconvenient hours (late at night, past midnight, or early in the morning). (Exhibits B2 and B3). She was always on-call for her work. Failure to respond to late-night texts would result in questioning from Mr. Alatriste the following day. The job was high-stress and Mr. Alatriste would often become very agitated about her photos being perfect and work being produced quickly, as he depended on her labor for the functioning of the NYCC's press office.
- 13. Ms. Ball was not provided with formal trainings, and there was no significant educational component of the internship besides typical on-the-job learning.
- 14. Ms. Ball continued to work despite nonpayment because Mr. Alatriste repeatedly told her that she would ultimately be paid. When Ms. Ball suggested that she reach out to staffer Ramon Martinez about her nonpayment, Mr. Alatriste informed her over text message that this would be the "Worst thing you Could do." [sic] (Exhibit D1). Mr. Alatriste repeatedly warned her that contacting Human Resources or Council Speaker Melissa Mark-Viverito would result in unspecified disciplinary action.
- 15. Upon information and belief, Mr. Martinez was aware that Ms. Ball was working for the NYCC and was not being paid. In July and August of 2015, Mr. Alatriste repeatedly stated that Mr. Martinez was appraised of the situation but was reluctant to pay her. Mr. Alatriste also informed Ms. Ball

that the Communications Director at the time, Eric Koch, believed that Ms. Ball should be paid and was pushing Mr. Martinez to pay her.

- 16. After Ms. Ball's internship ended, she continued to reach out to Mr. Alatriste, asking to be paid. She called many times, though he never returned her calls. She asked in emails to be paid, and he responded that he would call her about it, but never did. (Exhibit D2). Ms. Ball's last request to be paid was in February of 2016, which he never responded to. (Exhibit D3). Eventually, Ms. Ball gave up, thinking there was no way she could ever recover her lost wages.
- 17. In total, Ms. Ball performed 236.25 hours of work for the NYCC from June 14, 2015 to August 29, 2015. (Exhibit E).
- 18. NYCC's failure to pay Ms. Ball for her work caused Ms. Ball significant financial hardship.
- 19. Ms. Ball on June 14, 2017 date sent a letter outlining her complaint and request for relief to Robin Levine, NYCC HR, NYCC Payroll, Council Member Helen Rosenthal, Council Member Jumaane Williams, and Council Speaker Melissa Mark-Viverito via postal mail and email, and has received no response.

CLAIMS FOR RELIEF

FIRST CLAIM: FEDERAL LABOR STANDARDS ACT

20. Defendants violated plaintiff's rights under the Federal Labor Standards Act, 29 U.S.C. Chapter 8 §203(e), §206(a), and §215(a)(2) by failing to pay Ms. Ball for her labor.

SECOND CLAIM: NEW YORK STATE CONTRACT LAW

21. Defendant William Alatriste violated New York State Contract Law by promising to pay Ms. Ball \$15.00 an hour for her work and then failing to do

so. Ms. Ball made the decision to accept the photojournalism position, instead of other positions, because she reasonably relied on Mr. Alatriste's promises of payment, to her own detriment.

PRAYER FOR RELIEF

WHEREFORE, the plaintiff respectfully requests that this Court:

- 1. Assume jurisdiction over this matter;
- 2. Order the New York City Council to pay Ms. Ball \$3,543.75 (\$15.00 per hour for 236.25 hours) for work she performed from June 14, 2015 to August 29, 2015;
- 3. Award plaintiff the \$590.63 in Federal Labor Standards Acts Damages that she is entitled to;
- 4. Award any attorney's and Court fees plaintiff may incur;
- 5. Award such other and further relief that this Court deems just and proper.

Dated this 26th day of June, 2017

Madeleine C. Ball, Pro Se 25-61 34th St., Apt 1 Astoria, NY 11103 (203) 858-9978

Summary of Pleading - 6

June 26, 2017

Madeleine C. Ball 25-61 34th St., Apt. 1 Astoria, N.Y., 11103 (203) 858-9978

EXHIBITS DOCUMENT

EXHIBIT A1:

William Alatriste <william.alatriste@gmail.com>

to me
After a month of pushing and pulling, I think I've finally managed to get through to the powers that control flow of funds. I'm almost certain that I'll be able to pay your for the internship. Hopefully you've been keeping record of your hours. Will talk more on Monday.

Madeleine Ball <madeleine.c.ball@gmail.com>

8/1/15

Sigh of relief. Thank you so much for working on this. I can't tell you how helpful that will be. I've tracked every hour since day 1. Let me know what I need to do to make this possible.

See you on Monday.

Click here to Reply or Forward

EXHIBIT A2:

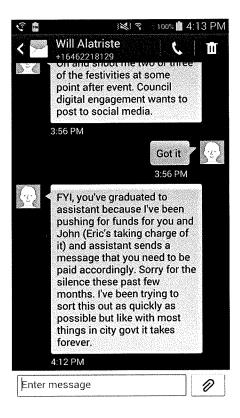


EXHIBIT A3:



EXHIBIT B1: Mr. Alatriste instructing me at 8:38pm to cover a press conference for the NYCC in Staten Island for press and social media. Photo later appeared in the *Staten Island Advance*.

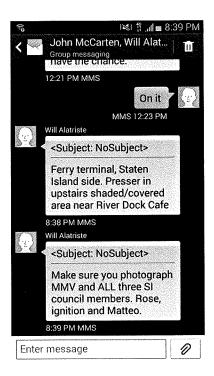


EXHIBIT B2: At 11:51 P.M., Mr. Alatriste giving instructions for an assignment.

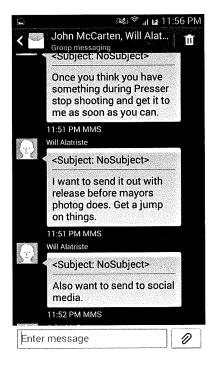


EXHIBIT B3: At 11:58 P.M, Mr. Alatriste giving instructions for an assignment that would be distributed to City Hall beat reporters.

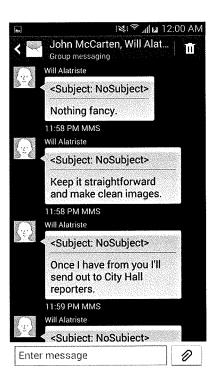


EXHIBIT B4: Mr. Alatriste instructing me to send photos I took on an assignment to the press.

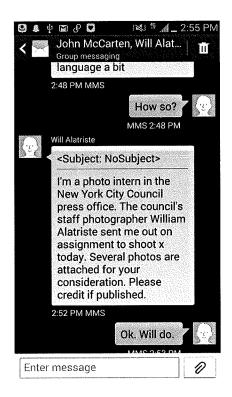


EXHIBIT B5: Mr. Alatriste providing detailed instructions to shoot a precise photo for media.

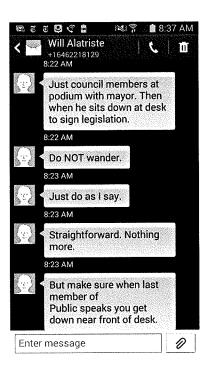


EXHIBIT B6: Mr. Alatriste instructing me to identify as an independent photographer, not an intern, in conversations with press.

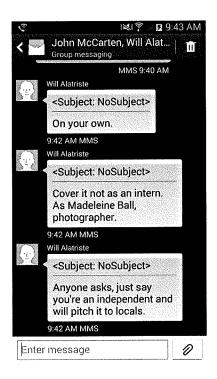


EXHIBIT B7: Mr. Alatriste sending me on an assignment in his stead, as his "proxy."

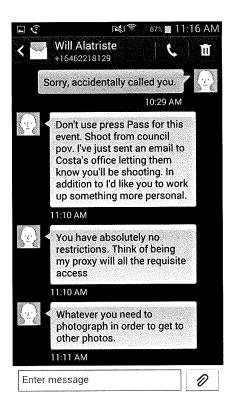


EXHIBIT C1: Front page of the Amsterdam News, 8/6/15-8/12/15. I took the photo for the NYCC.





By NAYABA ARINDE Amsterdam News Editor

"The gunshots are like lulla-

"The gurshots are like lullabies over here." said a resident of the Walt Whitman Houses in Fort Greene, Brooklyn, to NYI, in the wake of the shooting death of Dorningo Martin, 46, Saturday night. "They help you get to sleep. Unfortunately for that goy, if's permanent." "It is an epidemic!" declared Brooklyn City Council Member Jumsaner Williams at a press conference held Monday on the steps of lay Street City Holl. "It is a national public health crisis." The NYPID told the Amsterdam News that this past week-end—from Friday, July 31 to Sunday, Aug. 2—there were 10 shooting incidents with 22 victims, including three deaths. Monday, Aug. 3. on Dwight Street in Red Hook, Brooklyn, Fredrick Marquise, 19, and ander man were suspected of shooting three women and two men. It is reported that a See EPIDEMIC on page 32 See EPIDEMIC on page 32

Legionnaires' disease creates health scare for city

By CYRIL JOSH BARKER rdam News Staff

Legionnaires' disease is the latest health scare that has taken New York-ers by storm and put the city into some-what of a frenzy. News of the outbreak made headings

News of the outbreak made headlines last week, with cases seen in the South Bronx. As of Wednesday, nearly 90 cases of the disease and seven deaths have been reported since July 10. Legionnaires' disease is primari-ly caused by the bacterium Legionel-la pneumophila. Symptoms include headache, fatigue, loss of appointe, con-fusion and diarrhea. Symptoms usually propertuse of Uldway dee sequificant. appear two to 10 days after significant

exposure to Legionella bacteria. Those who died had underlying health conditions and were elderly.

I Most cases of Legionnaires' disease can be traced to plumbing systems, where conditions are favorable for Legionella growth, such as whirlpool span, hot tubs, humidifiers, hot water tanks, cooling towers are several conditioning systems. Several cooling towers are seadu, and a wider look at cooling towers across the city has been prompted. The disease cannot spread person to person.

At a press conference. Mayor Bill de See LEGIONNAIRES on page 6

Is there a national attack on Black women?



EXHIBIT C2: Staten Island Advance, 7/21/15. Photo taken by me for the NYCC.

Budget support for Staten Island cheered by locals



Councilwoman Debi Rose, Speaker Melissa Mark-Viverito and Minority Leader Steven Matteo announce budget funding for Staten Island. (Madeleine C, Ball for the New York City Council)



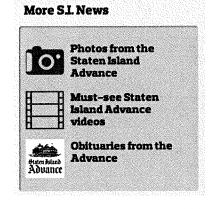
By Anna Sanders | asanders@sladvance.com Email the author | Follow on Twitter on July 21, 2015 at 5:30 PM, updated July 21, 2015 at 5:34 PM — Print ☐→Email

CITY HALL -- Staten Island's Council members make a point of bringing up the borough at City Hall.

CITY HALL REPORT

Joseph Borelli running unopposed





Most Read

EXHIBIT C3: The *Times-Ledger*, 8/14/15-8/20/15. Photo taken by me for the NYCC.

Queens Theatre raises curtain on new year

Season featuring dance, theater and family performances runs from October to May

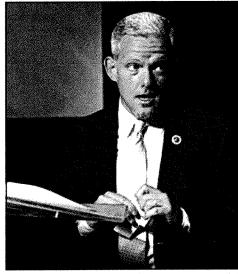
BY MERLE EXIT

It was "another opening, another show" in Flushing Meadows Corona Park when lawmakers and the borough's performing arts crowd gathered to talk about the 2015-2016 season at the Queens Theatre.

The 27th season, which has been extended from October to May, includes dance, drama and family-friendly shows.

and family-friendly shows.
"This will be an exceptional season, one that promises thrilling performances and joyful moments," Taryn Sacramone, the theater's managing director, said. "I know that our audiences will enjoy these shows, and hope that people who have never been to Queens Theatre will come to the theater for the first time."

Things kick off mid-October with performances by the Long Island City-based Jessica Lang Dance company. Lang, who started the troupe in 2011, is known for her choreography that takes classic



City Councilman Jimmy Van Bramer speaks during the announcement of Queens Theatre's 2015-2016 season in Flushing Meadows Corona Park. Photo courtesy Madeleine Ball

ballet movements and turns them into contemporary works.

In the dance series, Brooklyn-based company Ronald K. Brown/Evidence, A Dance Company; Bill T. Jones/Arnie Zane Dance Company; and Argentine dance company Che Malambo will all have runs.

Theater options in October begin with Renee Taylor's "My Life on a Diet," a one-woman show from the TV and film actress, that details her battles with losing weight.

Other stage productions on tap for the season include "To Kill a Mockingbird," the award-winning musical "Murder for Two" and a new adaptation of "The Adventures of Sherlock Holmes" created by Manhattan-based Aquila Thestre

The family aeries will feature four shows based on beloved children's books, including "Madeline and the Bad Hat;" "The Lion, the Witch and the Wardrobe;" "Henry and

Mudge" and "Curious George: The Golden Meatball."

Family shows also include the Queens Theatre debut of "Under the Tangle" by the Treehouse Shakers, and the return of the innovative Lightwire Theater with its newest production "Moon Mouse."

"The Queens Theatre is helping lead the way toward ensuring every New Yorker has access to a wide-variety of artistic programming and the cultural experiences they deserve," Councilman Jimmy Van Bramer (D-Sunnyside), said. "As we launch the 2015-2016 season, Queens Theatre promises to give patrons the opportunity to enjoy quality cultural programming that will promote the diversity of our great borough that makes Queens a top destination for the arts and culture."

More events will be added throughout the season. For more information, visit the theater's website at queenstheatre.org. EXHIBIT C4: This photo was taken by me for the NYCC and ran in the <u>Canarsie Courier</u> on 8/13/15. Councilman Williams discussed Catherine McAuley High School before Mayor Bill de Blasio signed legislation to designate East 37th Street and Foster Avenue as "Catherine McAuley High School Way."

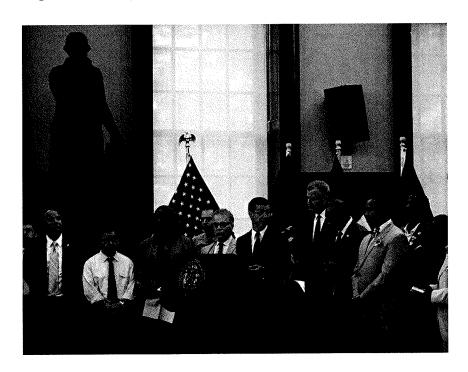


EXHIBIT C5: This photo was taken by me for the NYCC and ran in the *West Side Rag* on 8/10/15. Council members Helen Rosenthal and Mark Levine joined Yankee Manager Joe Girardi at Lasker Pool to hand out Summer Meals to children.



EXHIBIT C6: Links to other publications of my work for the NYCC is published in: https://madeleinecball.com/about-2/publications/

EXHIBIT D1:

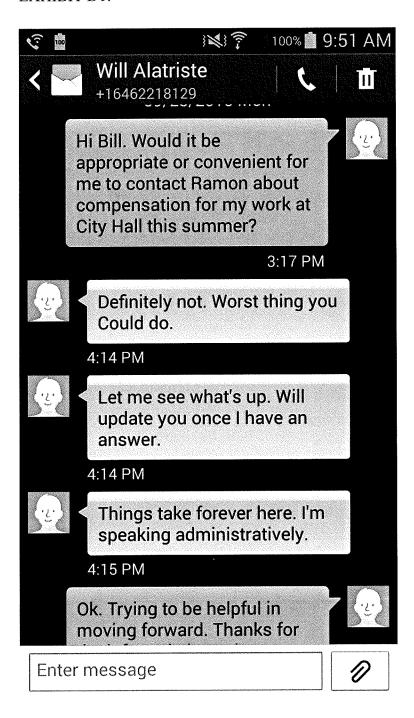


EXHIBIT D2:

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	Happy New Year Bill,										
	How are you doing?										
	Back in C more abo	ctober, ut it. If t									
	In the next week, I will apply for a NYPD Press Pass. Graduation is in May and I need the proper materials to enter the workforce.										
	Speaking of, I'm compiling a portfolio, and need the wedding photos. When is the most convenient time and place to pick up the memory card?										
	I have qu	I have questions regarding summer compensation that are best discussed on the phone or in person.									
	Thank yo	u. I'll gi	ve you a ca	ill at the end of the	week.						
	Sincerely,										
	Madelein	е									
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	to me 🕶							william.alatriste@gmail.com			
	Madelein										
	Great to through i		Show details								
	I have hernia surgery scheduled next Wednesday (it might be postponed because I'm getting over a virus) and I'll be out for a few weeks minimum.										
	If I go forward with surgery, are you available to step in from 13th to the 26th or so?										
	John will	John will be returning from a trip by then and might be able to cover from that point oπ.									
		Let's talk in person about comp. I'll give a call tomorrow or over the weekend. Today is my wife's Christmas so big family get together tonight.									
	Merry Christmas to you as well⊷if you celebrate around this time.										
	Bill										
	•••										
3		ne Ball	<madeleine< td=""><td>e.c.ball@gmail.com</td><td>></td><td></td><td>1/7/16</td><td>Will Alatriste</td></madeleine<>	e.c.ball@gmail.com	>		1/7/16	Will Alatriste			
	to Will							william.alatriste@gmail.com			
	Hi Bill,										
	No worries. Wishing you a successful surgery and quick recovery. If you and your family need anything— someone to watch the kids, an errand— please don't hesitate to call, I'm still right around the corner.										
	I'm availe	ble to s	tep in on th	he 13th onwards. L	ooking forward to it.						
	Merry Ch	ristmas	. Enjoy the	celebration tonight							
	Best,										
	Madelein	e									

EXHIBIT D3:

Memory card from wedding, compensation	6 2	Will Alatriste Add to circles						
Madeleine Ball <madeleine.c.ball@gmail.com> to William </madeleine.c.ball@gmail.com>	2/2/16							
Hi Bill,		Show details						
How are you doing? I know you're about to go into surgery and will be out for a few weeks. Can we meet at your convenience so that I can grab the memory card with my photos from Sal and Seth's wedding and to discuss compensation?								
I don't ask for more than 10 minutes of your time.								
Thank you very much. Talk to you soon.								
10								
Click here to <u>Reply</u> or <u>Forward</u>								

EXHIBIT E: My hours:

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Tuesday	6/16/15	10:00 AM	6:00 PM	8
Wednesday	6/17/15	9:00 AM	5:00 PM	8
Thursday	6/18/15	10:00 AM	5:00 PM	7
Friday	6/19/15	9:30 AM	5:30 PM	8
Saturday	6/20/15	12:00 PM	3:00 PM	3
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Wednesday	6/24/15	11:00 AM	6:00 PM	7
Thursday	6/25/15	12:00 PM	5:30 PM	5.5
nday	6/26/15	10:30 AM	6:30 PM	8
Saturday	6/27/15	12:30 PM	4:30 PM	4_
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Friday	7/10/15	9:00 AM	6:00 PM	9
Saturday	7/11/15			
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Monday	7/13/15	11:00 AM	5:00 PM			6
Tuesday	7/14/15	11:15 AM	5:30 PM			6.25
Wednesday	7/15/15	10:00 AM	6:30 PM			8.5
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Tuesday	7/21/15	11:00 AM	1:30 PM	as er commo de commo as encrito de de de la managen as aman artico ade de la tribata (ade di America). El	rondus kritii in hii da kipulus mashama (polomodhe da birdani 1904 na 194 194 190 190 190 190 190 190 190 190 1	2.5
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Thursday	7/23/15	10:00 AM	5:00 PM			7
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Saturday	7/25/15					
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Saturday	8/1/15					
Total						5
Day	Date	Time in	Time Out	Time in 2	Time Out 2	Regular Hours
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Monday	8/3/15	11:00 AM	4:30 PM	6:00 PM	9:00 PM	8.5
Tuesday	8/4/15	10:00 AM	3:30 PM	7:00 PM	9:30 PM	8
Wednesday	8/5/15	10:30 AM	7:30 PM	**************************************		9
Thursday	8/6/15	11:30 AM	6:00 PM	ing the state of the desire of the state of		6.5
Friday	8/7/15	9:00 AM	5:00 PM			8
Saturday	8/8/15					
Total					nderson die Aussiele (1940 In Nobel In Stein aus von der Ausbert (1970) der des Stein (1970) der Aussiele (1970	40

Dary	Date	Time in	Time Out	Time in 2	Time Out 2	Regular Hours
Sunday	8/9/15	11:00 AM	3:00 PM			4
Monday	8/10/15	10:00 AM	7:00 PM		and a political of the contract contrac	9
Tuesday	8/11/15	6:00 PM	10:00 PM	manne kirkunar salasaka keristan kirkunar kirakun ong dinakaran da Shoomera.		4
Wednesday	8/12/15	1:00 PM	2:00 PM	oo, deermaa Commissioolia ka		
Thursday	8/13/15					
Friday	8/14/15					
Saturday	8/15/15					
Total				the boson March Collage from M. Hall Review and A. H.		18
Day'	Date	Time in	Time Out	Time in 2	Time Out 2	Rogular Hours
Sunday	8/16/15					
Monday	8/17/15	11:00 AM	5:00 PM		on the annichment is the sense of the control of th	6
Tuesday	8/18/15	6:00 PM	9:00 PM	Minocondo in roba do minim france do minor do minor de desendado e francesado (1999-1964 e 1995)	Middle Company of Artifaction of Company of Artifaction (Artifaction Company) over the World Stitute of Company	3
Wednesday	8/19/15	and for mined is obtained by a copie of the mined in the definition of the desire desired and another security	and a self-self-self-filter and self-senament gradient descriptions described and self-self-self-self-self-self-self-self-	and the latest designed and the second secon	eneman i factoria de la colonia social de colònia de la colonia de la colonia de la colonia del social del soci	
Thursday	8/20/15					
Friday	8/21/15					
Saturday	8/22/15					
Total						9
Day	Date	Time in	Time Out	Time in 2	Time Out 2	Regular Hours
Sunday	8/23/15	NATIONAL AT LONG AT LO		vonanti i i i i i i i i i i i i i i i i i i		
Monday	8/24/15		option transplay articles contribute a trady department of the contribution of the con		**************************************	
Tuesday	8/25/15					novino menerana reseava e persona e persona social e persona e por establica de la composição de la composição
Wednesday	8/26/15	5:00 PM	8:00 PM		en en al anno como en como en la constante del 1974 del deconoción en moch espécial del 1974 de de del delen	3
Thursday	8/27/15	11:30 AM	2:00 PM			2.5
Friday	8/28/15	4:30 PM	7:00 PM			2.5
Saturday	8/29/15					
Total						8